

CHAPTER 1

CIVIC RIGHTS AND RESPONSIBILITIES

A. THE DIFFERENCE BETWEEN DOMICILE AND RESIDENCE

Although the terms "domicile" and "residence" are often used interchangeably, their legal meaning can be very different. "Residence" generally means living in a particular place; "domicile" means living in that place with the intent to make it your permanent home. "Residence" is the most frequently used word, but its meaning and the length of time required to establish residency varies depending upon whether you are seeking to vote, obtain a divorce, pay in-state tuition, obtain a hunting or fishing license, etc. Your residence may differ from your spouse's residence, depending upon your individual circumstances. Be aware that the two terms are not legally identical.

B. VOTING

Every United States citizen eighteen years or older has the right to vote. You must register to vote and meet the applicable residency requirements to exercise your voting right. You may register with your precinct registrar at least 17 days before the election, or with the county clerk at least ten days prior to the election. Or, you may register the day of an election at the voting place. You will need personal identification and proof of your address, such as a letter addressed to you or confirmation of utility service. If you have moved or changed your name since you last voted, you must reregister.

Voting by absentee ballot is possible when you are in the armed forces, will be out of the state or county on Election Day, or are physically unable to vote at the designated polling place. A registered voter may apply to vote by absentee ballot by mail or fax no later than 5 p.m. the day before the election and no earlier than 60 days before the election. A person may also apply in person at least 48 hours before the election. In an emergency situation, which leaves one physically unable to vote at the designated place, that person may apply for an absentee ballot on the day of the election. The absentee ballot may be delivered to you in person, by mail, by fax, or by other appropriate means. Persons convicted of certain crimes lose their right to vote; however, voting rights may be restored upon completion of a criminal sentence.

C. JURY SERVICE

A citizen may not be excluded from jury service because of race, religion, gender, national origin, or economic status. Prospective jurors must be citizens, at least 18 years old and residents of the county. They may be disqualified if they cannot read, speak and understand English, have a disability that prevents them from serving, or have lost the right to vote because of a felony criminal conviction. Individuals over 70 years old may be excused upon written request. Other persons may be excused upon the showing of undue hardship, extreme inconvenience or public necessity. Nursing mothers may be granted a postponement. Postponement for other medical reasons must be documented by a medical professional.

Persons are selected for jury service at random from a master jury list. The master jury list for a county consists of the voter registration lists supplemented with names of utility customers, property taxpayers, motor vehicle registrants and driver's license applicants.

D. FAIRNESS AND EQUALITY IN IDAHO COURTS

The Idaho Supreme Court appointed a committee to promote fairness and equality in Idaho's courts. As a result, in 1992 they republished the "COURT CONDUCT HANDBOOK" with the consent of the original publisher, the Massachusetts Supreme Judicial Court. These guidelines were distributed throughout Idaho's court system. They are to be used to identify, eliminate and prevent gender, racial or ethnic bias of every kind on the part of judges, juries, attorneys and other court personnel: a) in consideration of the litigant's cause, b) in the conduct of court personnel and c) in equal employment opportunities. It alerts judges to ensure that appropriate steps are taken to provide a neutral and unbiased forum for all. The handbook can be found at the local court library or in the county clerk's office.

E. HOLDING PUBLIC OFFICE

All citizens are encouraged to hold public offices, including political and judicial offices. Women are urged to participate in government as elected officials and administrative and judicial officers as fully as men. More information on qualifications and

requirements for these offices can be obtained from your county clerk's office, your local League of Women Voters' representative or your political party. Primary election applications and instructions (deadlines, filing fees, required number of signatures, etc.) are available from your county clerk's office for county offices, from your city clerk's office for city offices and from the Secretary of State's office for state offices. Many public offices are also filled by appointment. While many of these offices are without pay, public service is very rewarding and critical to the success of our government. For more information about these appointments, contact city, county, or state offices.

F. ENACTING LAWS

Each person's contribution is important in enacting our laws. Be sure to vote to elect your state and federal officials. Let your opinion on a particular matter be known by urging your state or national senator or representative to vote a particular way on a bill. Contact your state legislator by writing or calling at the Statehouse, Boise, ID 83720-0038 (House) or 83720-0081 (Senate). Or, you may call the Legislative Information Center at 208/332-1000 to have a brief message delivered to your Senator or Representative. The local telephone for the U.S. Senators and Representatives are as follows: Senator Larry E. Craig - 208/342-7985; Senator Mike Crapo - 208/334-1776; Representative Mike Simpson - 208/334-1953; C.L. Butch Otter- 208/336-9831.

The Legislative Information Center can also give you updated information on specific bills. A WATS number (1-800-626-0471) is also maintained during legislative sessions to provide legislative information and deliver messages. It is most important to be timely in your contacts so your legislator can consider your recommendations before voting. Contact your Federal Congressperson at her/his local office or office in Washington, D.C. The League of Women Voters, as well as the Legislative Services Office, keeps updated lists of legislators' state and national addresses and telephone numbers.

If you wish to learn how each legislative session is organized, a Legislative Directory is issued early in each session after key positions are chosen and assignments to committees are made. It also lists legislators according to their districts, with addresses and phone numbers for contacting them. A copy can be obtained at a nominal cost from the Legislative Services Office, Statehouse, Boise, ID 83720-0054, or call 208-334-2475. It also may be found in most public libraries.

1. HOW BILLS BECOME LAWS

Briefly, most bills are written by the Legislative Services Office, Research and Legislation, at the request of a legislator. Budget bills are written by the Legislative Services Office, Budget and Policy Analysis. Generally, written bills are introduced through a committee to the floor of the House or Senate.

FIRST READING: The bill receives a number, its title is read aloud, it is printed and then it is sent to the relevant committee, usually where it was introduced. The committee reviews it and may hold a public hearing. If so, you may appear at the hearing or write to the committee chairperson or any member. The committee then votes to hold (kill) the bill or send it to the floor with a "do pass" recommendation or without recommendation.

SECOND READING: The bill title is read a second time.

THIRD READING: Usually a day later, the bill title is read a third time. Bills are not read at length if all members agree. Members may discuss the bill and then vote to pass or not to pass it. They can also amend the bill.

SUSPENSION OF RULES: Parts of the process can be shortened or lengthened by a two-thirds vote to suspend the rules. If the bill passes, it is sent to the other chamber where the same process ensues. If it passes again, it is sent to the Governor who signs it, allows it to become law without a signature, or vetoes it. The Legislature can override a veto if both houses vote by a two-thirds majority to do so. If the legislature adjourns for the year before the veto, the veto is final.

2. HOW TO FOLLOW LEGISLATION

Each day while the Legislature is in session, most libraries receive printed copies of the bills. You can read these for specific information on what is contained in the bill. An information sheet (Mini Data), giving the status of each bill (where it is in relation to the enactment process outlined above) is also mailed to these libraries daily

Beginning with the 1996 Legislative Session, Idaho has joined the electronic age, offering access to the legislative information on the Internet's Worldwide Web. Using simple search tools, anyone connected to the system can learn the history and current status of legislation and read the full text of bills. Bill information can be printed out or downloaded to personal computers without charge. Information will be updated after adjournment each night. During the session, committee schedules and floor calendars will be available to help citizens follow the progress of legislation and know when they can testify on particular bills and proposals. The Idaho Legislature's information can be reached on the Internet either through the state of Idaho home page, or by entering the following (URL) address: <http://www.state.id.us/legislat/legislat.html>. For additional up-to-the-minute information on bills, call the Legislative Information office.

After many legislative sessions conclude, legislative or governor's task forces are formed to research pressing issues. At the end of the 1996 session, for instance, task forces on Medicare reform and special education were formed. The task force members gather information from various sources, including citizen input. The Legislative Services Office has additional information about any current task forces and their activity.

3. THE IDAHO CODE

The Idaho Code is a listing of all of the laws passed by the Idaho State Legislature. New laws are placed in the Idaho Code after each session of the legislature. Copies of the Idaho Code can be found in the county courthouse and many libraries throughout the state. There are 26 volumes, each containing a specific group of laws (e.g., civil, criminal, domestic, tax, etc.). The most recently enacted laws are found in the supplement located at the back of each volume. References noted in this booklet can be found in the Idaho Code. Your librarian can show you how to find them.

In addition to codified laws, many state government departments and agencies are allowed to make rules to govern their responsibilities and duties. Some of these rules must be approved by the legislature as well. For more information about agency rule making, contact the Legislative Services Office, the agency in question, or the Idaho State Law library.

G. CITIZENSHIP AND IMMIGRATION LAW

1. CITIZENSHIP

Persons living in the United States can be divided into two groups: citizens and noncitizens commonly called aliens. Noncitizens or aliens can be further placed into two categories: immigrants, known in immigration terms as lawful permanent residents (LPR) and nonimmigrants.

Citizenship guarantees certain rights and privileges, such as the right to vote and serve on juries, which are not available to noncitizens. United States citizenship can be obtained by birth, derivation from citizen parents, or naturalization.

The clearest proof of citizenship is a certified birth certificate showing birth in the United States. This may be obtained from the Bureau of Vital Statistics in your state of birth. Alternative proof such as baptismal records, census records, military records or a United States passport can be used if a birth certificate is unavailable. If you derive citizenship from your parents, you can obtain a Certificate of Citizenship from the Bureau of Citizenship and Immigration Services (BCIS). A naturalized citizen obtains a Naturalization Certificate from BCIS. Information and forms are available at the nearest BCIS office.

2. NATURALIZATION

Naturalization is the judicial process through which a noncitizen, or alien, becomes a citizen. The qualifications and procedures are outlined in the Immigration and Nationality Act (INA), which is found in Title 8 of the United States Codes and the Code of Federal Regulations. To be eligible, you must be at least 18 years old, be a lawful permanent resident of the United States for five years (three years if married to a U.S. citizen) and be a person of good moral character. You must also demonstrate knowledge of United States history and government, as well as the ability to speak, read and write English. Information and applications are available at the nearest BCIS office.

3. LAWFUL PERMANENT RESIDENCE (LPR) and NONIMMIGRANTS

Our immigration laws spell out the qualifications that aliens must have in order to come into this country. Lawful permanent resident or immigrant status may be based on marriage to a citizen, or other specified family relationship with either a citizen or lawful permanent resident. The Immigration and Naturalization Act (INA) severely limits the availability of LPR status. Further, the determination of eligibility for LPR status depends on admissibility criteria such as quotas, preference categories, prior deportations and waivers for any grounds of exclusion.

If a noncitizen in the United States can establish eligibility for LPR status, he or she can petition for an immigrant visa through the local BCIS district office. A noncitizen or alien outside the United States can apply at an American consulate abroad. Because the process is complex and the burden of proof is on the petitioner, you are advised to consult with legal counsel versed in immigration law. General information is available at the nearest BCIS office and at any American consulate abroad.

Admission to this country is available to nonimmigrants who are coming for a specific reason and for a temporary period. Nonimmigrants may obtain visas as visitors, exchange students, temporary workers and fiancées or fiancés. If you seek one of these types of visas, you must be clearly admissible at the time of admission. If you are not admissible, you may be "excluded" or denied entry to this country. To challenge the determination of inadmissibility, a nonimmigrant may ask for a hearing before an Immigration Judge to review the determination and perhaps apply for a waiver on the grounds of excludability. You are well advised to consult with legal counsel versed in immigration law.

4. REFUGEES

Asylum is available to refugees who can prove they fear persecution in their native country because of their race, religion, political opinion, nationality or membership in a particular social group. Because there is a heavy burden of proof, it is recommended that the asylum applicant seek legal counsel who is experienced in asylum matters. General information is available at the nearest BCIS office, but refugees should be cautioned about the risks of arrest by Bureau of Immigration and Customs Enforcement (BICE) if they voluntarily present themselves at a BCIS or BICE office.

5. IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)

By passing the Immigration Reform and Control Act of 1986 (IRCA), Congress attempted to gain some control of this country's borders. IRCA provided amnesty to certain aliens residing in the U.S. unlawfully. Qualified aliens could adjust to lawful permanent resident status after the passage of a certain period of time. When adjustment applications are filed, applicants must also show that they have a basic knowledge of English and American civics.

The IRCA imposes sanctions of up to \$10,000 per violation on all U.S. employers that hire employees who are not either U.S. citizens or aliens authorized to work by BCIS. Sanctions are also imposed on employers who fail to verify the legal right to work of all persons hired after November 6, 1986. Further, IRCA provides penalties for employment discrimination based on immigration status.

6. THE IMMIGRATION ACT OF 1990 (IMMACT 90)

The Immigration Act of 1990 (IMMACT 90) changed and clarified the types of nonimmigrant visas available, increased the numerical quota levels for immigrants and refugees, provided for investor visas and established a new category known as temporary protected status (TPS). TPS may be granted to aliens who are imperiled in their home countries by armed conflict, natural disaster, or other temporary conditions. Under IMMACT 90, aliens convicted of criminal offenses may be deported more quickly than under the prior law.

Immigration law is complex and constantly changing. Aliens are cautioned to obtain advice from legal counsel versed in this area of the law before voluntarily seeking assistance at a BCIS or BICE office.

In Idaho, the district office is at:

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services and
Bureau of Immigration and Customs Enforcement
1185 S. Vinnell Way
Boise, Idaho 83709
1/800/375-5283
www.immigration.gov

7. ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT (IIRAIRA)

In 1996, the 104th Congress passed and the President signed into law the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA). IIRAIRA was signed as an effort to curb illegal immigration. However, it also includes many provisions that have affected American families, legal immigrants and others seeking to enter the United States legally. In fact, several members of Congress have introduced legislation that would address the problems resulting from the 1996 laws. However, until now, the 1996 law remains relatively unchanged.

Some of the most hotly debated provisions of IIRAIRA include:

AGGRAVATED FELONIES: Immigrants convicted of a crime defined by immigration law as an "aggravated felony" are removable and are not eligible for relief from removal. Initially, only the crimes of murder, drug trafficking and firearms trafficking constituted aggravated felonies. Additionally, a domestic battery can constitute a removable offense. However, under IIRAIRA, some minor crimes (e.g., shoplifting) constitute aggravated felonies. Furthermore, a legal immigrant may be removed for an offense committed years ago, even if the crime was not then defined as an aggravated felony nor a removable offense.

BARS TO ADMISSIBILITY: IIRAIRA created new bars to admissibility to the U.S. for people who have been unlawfully present in the U.S. for six months or longer. The period of unlawful presence in the U.S. starts to count on April 1, 1997, the date of enactment of IIRAIRA.

EXPEDITED REMOVAL: IIRAIRA created a new expedited removal process in effect at all U.S. ports of entry. Under this expedited process, persons attempting to enter the U.S. with fraudulent documents or no documents can be summarily removed from the U.S. by a Bureau of Immigration and Customs Enforcement or Bureau of Customs and Border Patrol (BCBP) inspector at the port of entry without a hearing. Additionally, persons who attempt to enter by what the BCBP inspector believes to be "misrepresentation" may be similarly removed. The decision of the BCBP inspector is reviewed only by a supervisor, and is non-reviewable by the courts.

JUDICIAL REVIEW: Under the IIRAIRA, virtually all discretionary decisions affording relief to eligible individuals are no longer reviewable by a court.

H. SOCIAL SECURITY NUMBERS

Every person working in the United States must have a Social Security number. Beginning with the 1991 tax year, every child over the age of one must have a Social Security number for tax purposes. A Social Security number may be obtained from your local Social

Security office either by mail or in person. To obtain a Social Security number, a birth certificate and another form of identification, such as a vaccination record or a driver's license, are required. To obtain a Social Security number by mail, the original or certified copies of the documents must be provided along with a completed application form.

If you change your name for any reason, you should change the name under which your Social Security number is listed. You are not required to notify the state or federal taxing agencies of a name change. However, the taxing agencies will verify the name used on your tax return with the records of the Social Security Administration (SSA). If you file a return with a name other than the name on record with SSA, a delay will occur in processing your return and mailing your refund. To protect your privacy, it is a good idea not to use your Social Security number for purposes other than reporting Social Security and income taxes. For example, you do not have to use your Social Security number on your driver's license. For more information, contact your regional Social Security office. The telephone number should be listed in the telephone directory under U.S. Government.

I. PROTECTION FROM DISCRIMINATION

Discrimination based on race, color, national origin, religion, or sex is prohibited by Title VII of the 1964 Civil Rights Act, a federal law. Another federal law, the Age Discrimination in Employment Act of 1967 prohibits discrimination against persons who are 40 years of age or over.

The Americans with Disabilities Act of 1990 protects persons with disabilities from discrimination in the areas of employment, access to places of public accommodation, transportation facilities, state and local government services, and telecommunications.

The Americans with Disabilities Act (ADA) of 1990 applies to employers, employment agencies, labor organizations or joint labor management committees. It requires equal opportunity in the selection and hiring of qualified applicants with disabilities and requires equal treatment, promotions and benefits. Employers may not make employment inquiries about an applicant's disability or conduct preemployment medical exams. They may ask if applicants can perform specific job functions if they are essential to the job and may condition a job offer on the results of a medical exam, but only if the exam is required for all entering employees in similar jobs.

The Act also requires reasonable accommodation for applicants and workers with disabilities when such accommodation would not impose an undue hardship. Reasonable accommodations may include making facilities more accessible, job restructuring, part time or modified work schedule, modifications to examinations or training, the provision of qualified trainers or interpreters and/or other similar accommodations.

For the accommodation to be an undue hardship, it must require significant difficulty or expense. Factors included to make these decisions could be the nature or cost of the accommodations, the resources and size of the business and the impact the accommodations would have on the facility. Individuals can file complaints with the Equal Employment Opportunity Commission or file private lawsuits within 180 days of a violation.

a. Public Accommodations

Public accommodations operated by private entities such as motels, hotels, restaurants, theaters, stores, offices, museums, parks, schools, gyms and social service agencies may not prohibit any individual with a disability from the full and equal enjoyment of the goods, services and facilities of any of these places. Auxiliary aids and services are required unless the business can demonstrate undue hardship.

For existing facilities, barriers must be removed when such removal is readily achievable. If not, alternative methods of making goods and services available must be in place. New facilities must be accessible unless structurally impractical. Exceptions to these requirements are bona fide private clubs and religious groups. Individuals may bring private lawsuits to obtain a court order to stop discrimination, but money damages cannot be awarded. Individuals can also file complaints with the State Attorney General, who may file lawsuits to stop discrimination and obtain money damages and penalties.

b. Transportation

The ADA requires that newly purchased and leased bus and rail vehicles by public or private entities must be accessible. Public transit authorities must provide comparable service to individuals who cannot use fixed route systems unless it would be an undue burden. New bus stations and alterations to existing rail systems must have one accessible car per train. Key rail stations must also be accessible unless granted an exception. Complaints can be made to the State or Federal Department of Transportation.

c. Telecommunications

The ADA requires that telecommunication relay services be provided for individuals who have a hearing or speech impairment which would enable them to engage in communication with a hearing individual in a manner which is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment. For further information contact the Idaho ADA Task Force at 208/344-5590.

Idaho state law also protects persons from discrimination. The Idaho Human Rights Act, Chapter 59, Title 67 of the Idaho Code, was passed by the Idaho Legislature in 1969. Its purpose is:

[t]o secure for all individuals within the state, freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions and discrimination because of age in connection with employment and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health and general welfare and to promote the interest, rights and privileges of individuals within the state.

The Idaho Human Rights Act is administered by the Idaho Human Rights Commission. Persons who believe they may have experienced discrimination in employment, access to housing, education or public accommodations may contact the Human Rights Commission in person at 1109 Main Street, Owyhee Plaza Hotel, Suite 400, Boise, Idaho; by mail at P.O. Box 83720, Boise, ID 83720-0040; or by telephone at (208) 334-2873, toll free at 1-888-249-7025; or TTY/TDD (208) 334-4751. Complaints of discrimination must be filed with the Idaho Human Rights Commission before other avenues for legal redress may be used.